

Senate File 471 - Reprinted

SENATE FILE 471
BY COMMITTEE ON STATE
GOVERNMENT

(SUCCESSOR TO SF 179)

(As Amended and Passed by the Senate March 21, 2011)

A BILL FOR

1 An Act relating to the review of administrative rules and
2 application processes.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. NEW SECTION. **17A.4B Negotiated rulemaking.**

2 1. An agency shall create a negotiated rulemaking group if
3 required by statute. An agency may, on its own motion or upon
4 request, create a negotiated rulemaking group if the agency
5 determines that a negotiated rulemaking group can adequately
6 represent the interests that will be significantly affected by
7 a draft rule proposal and that it is feasible and appropriate
8 in the particular rulemaking. Notice of the creation of a
9 negotiated rulemaking group shall be published in the Iowa
10 administrative bulletin. Upon establishing a negotiated
11 rulemaking group, the agency shall also specify a time frame
12 for group deliberations.

13 2. Unless otherwise provided by statute, the agency shall
14 appoint a sufficient number of members to the group so that
15 a fair cross section of opinions and interests regarding the
16 draft rule proposal is represented. One person shall be
17 appointed to represent the agency. The group shall select its
18 own chairperson and adopt its rules of procedure. All meetings
19 of the group shall be open to the public. A majority of the
20 membership constitutes a quorum. Members shall not receive
21 any per diem payment but shall be reimbursed for all necessary
22 expenses. Any vacancy shall be filled in the same manner as
23 the initial appointment.

24 3. Prior to the publication of a notice of intended action,
25 the group shall consider the terms or substance of the rule
26 drafted by the agency and shall attempt to reach a consensus
27 concerning the draft rule proposal.

28 4. If a group reaches a consensus on a draft rule proposal,
29 the group shall transmit to the agency a report containing the
30 consensus on the draft rule proposal. If the group does not
31 reach a consensus on a draft rule proposal within the specified
32 time frame, the group shall transmit to the agency a report
33 stating that inability to reach a consensus and specifying any
34 areas in which the group reached a consensus. The group may
35 include in a report any other information, recommendations,

1 or materials that the group considers appropriate. Any group
2 member may include as an addendum to the report additional
3 information, recommendations, or materials. A report issued
4 under this subsection shall not be considered final agency
5 action for purposes of judicial review.

6 5. Unless otherwise provided by statute, following a
7 negotiated rulemaking group consideration of a draft rule
8 proposal, the agency may commence rulemaking as provided in
9 section 17A.4. The group is automatically abolished upon the
10 agency's adoption of the rule pursuant to the provisions of
11 section 17A.5.

12 Sec. 2. Section 17A.7, subsection 2, Code 2011, is amended
13 by striking the subsection and inserting in lieu thereof the
14 following:

15 2. Over a five-year period of time, an agency shall conduct
16 an ongoing and comprehensive review of all of the agency's
17 rules. The goal of the review is the identification and
18 elimination of all rules of the agency that are outdated,
19 redundant, overbroad, ineffective, unnecessary, or otherwise
20 undesirable. An agency shall commence its review by developing
21 a plan of review in consultation with major stakeholders and
22 constituent groups. As part of its review, an agency shall
23 review existing policy and interpretive statements or similar
24 documents to determine whether it would be necessary or
25 appropriate to adopt these statements or documents as rules.

26 a. An agency shall establish its five-year plan for review
27 of its rules and publish the plan in the Iowa administrative
28 bulletin.

29 b. An agency's plan for review shall do all of the
30 following:

31 (1) Contain a schedule that lists when the review of each
32 rule or rule group will occur.

33 (2) State the method by which the agency will determine
34 whether the rule under review meets the criteria listed in this
35 section.

1 (3) Provide a means for public participation in the review
2 process and specify how interested persons may participate in
3 the review.

4 (4) Identify instances where the agency may require an
5 exception to the review requirements.

6 (5) Provide a process for ongoing review of rules after the
7 initial five-year review period has expired.

8 *c.* An agency shall consider all of the following criteria
9 when reviewing its rules:

10 (1) The need for the rule.

11 (2) The clarity of the rule.

12 (3) The intent and legal authority for the rule.

13 (4) The qualitative and quantitative benefits and costs of
14 the rule.

15 (5) The fairness of the rule.

16 *d.* When an agency completes its five-year review of its
17 rules, the agency shall provide a summary of the results to the
18 administrative rules coordinator and the administrative rules
19 review committee.

20 Sec. 3. RED TAPE INTERIM STUDY COMMISSION.

21 1. The legislative council is requested to establish an
22 interim study commission to comprehensively review all rules
23 and regulations in order to assess the effects of such rules
24 and regulations on Iowa's economy and to determine whether the
25 resulting burdens on small businesses and workers outweigh the
26 intended benefits. The study commission shall also review the
27 application processes for permits, grants, and tax credits to
28 ensure the processes are streamlined.

29 2. The study commission should submit a report to the
30 general assembly by December 15, 2011.